

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**ROY ELMORE,
APPELLANT
vs.**

**DIVISION OF EMPLOYMENT SECURITY,
RESPONDENT**

DOCKET NUMBER WD72894

DATE: MAY 31, 2011

Appeal from:

The Labor and Industrial Relations Commission

Appellate Judges:

Division Three: Joseph M. Ellis, P.J., Victor C. Howard and Thomas H. Newton, JJ.

Attorneys:

Roy Elmore, Appellant Pro-se

Larry R. Ruhmann, for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

ROY ELMORE, APPELLANT

v.

DIVISION OF EMPLOYMENT SECURITY, RESPONDENT

WD72894

Labor and Industrial Relations Commission

Before Division Three: Joseph M. Ellis, P.J., Victor C. Howard and Thomas H. Newton, JJ.

Roy Elmore filed a claim for unemployment benefits after he was discharged from his employment as a bus driver. A deputy for the Division of Employment Security determined that Elmore was disqualified from receiving benefits because he was discharged for misconduct connected with work. A notice of the determination was mailed to Elmore. The notice informed Elmore that he was required to file an appeal by April 28, 2010. Elmore filed his notice of appeal with the Appeals Tribunal on May 13. The Appeals Tribunal dismissed his appeal as untimely. The Commission affirmed and adopted the decision of the Appeals Tribunal. Elmore appeals.

DISMISSED.

Division Three holds:

Elmore asserts in his brief on appeal that the Commission erred in denying him benefits because the evidence did not show that he received the notice informing him that he had to appeal the deputy's determination by April 28. However, Elmore's brief does not contain any factual or legal argument as to why his appeal should be considered timely. Therefore, he has abandoned the issue of whether his appeal to the Appeals Tribunal was timely filed. Moreover, where Elmore did not raise the issue of the timeliness of his appeal before the Commission, he has failed to preserve that issue. Accordingly, Elmore's appeal is dismissed.

Opinion by: Victor C. Howard, Judge

Date: May 31, 2011

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